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Attorneys for Third-Party Defendant and Cross-Claimant  
**SCOTTSDALE INSURANCE COMPANY**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SIERRA BAY CONTRACTORS, INC., a  
California Corporation,

Plaintiff,

V.

**WESTCHESTER SURPLUS LINES  
INSURANCE COMPANY, a Georgia corporation,  
and ROES 1 through 50, inclusive.**

**Defendants.**

WESTCHESTER SURPLUS LINES INSURANCE  
COMPANY, a Georgia Corporation

### Third-Party Plaintiff.

Y.

ASPEN SPECIALTY INSURANCE COMPANY, a North Dakota Corporation; CONTINENTAL CASUALTY INSURANCE COMPANY, an Illinois Corporation; GEMINI INSURANCE COMPANY, a Delaware Corporation; GREAT AMERICAN ASSURANCE COMPANY, an Ohio Corporation; GREAT AMERICAN INSURANCE COMPANY, an Ohio Corporation; INTERSTATE FIRE AND CASUALTY COMPANY, an Illinois Corporation; LEXINGTON INSURANCE COMPANY, a Delaware Corporation; LIBERTY

CASE NO. 3:10-CV-04611-RS

**STIPULATION AND [PROPOSED]  
ORDER FOR DISMISSAL WITHOUT  
PREJUDICE OF SCOTTSDALE  
INSURANCE COMPANY'S CROSS-  
CLAIM AGAINST LEXINGTON  
INSURANCE COMPANY, IN  
EXCHANGE FOR A WAIVER OF  
COSTS**

1 SURPLUS INSURANCE CORPORATION, a  
2 New Hampshire Corporation; NIC INSURANCE  
3 COMPANY, a New York Corporation; OLD  
4 REPUBLIC GENERAL INSURANCE  
5 CORPORATION, an Illinois Corporation;  
6 TRANSCONTINENTAL INSURANCE  
COMPANY, an Illinois Corporation;  
SCOTTSDALE INSURANCE COMPANY, an  
Ohio Corporation; TRUCK INSURANCE  
EXCHANGE, a California Corporation;  
VIRGINIA SURETY COMPANY, an Illinois  
Corporation,

7 Third-Party Defendants.

8  
9 SCOTTSDALE INSURANCE COMPANY, an  
Ohio Corporation,

10 Cross-Claimant,

11 v.

12 AMERICAN SAFETY INDEMNITY  
COMPANY an Oklahoma Corporation;  
13 NAVIGATORS SPECIALTY INSURANCE  
COMPANY, formally known as NIC Insurance  
14 Company, a New York Corporation; GEMINI  
INSURANCE COMPANY, a Delaware  
15 Corporation; LEXINGTON INSURANCE  
COMPANY, a Delaware Corporation; and ROES  
16 1 through 20, inclusive,

17 Cross-Defendants.

18  
19 Pursuant to Federal Rule of Civil Procedure 41, third-party defendant and cross-claimant  
20 Scottsdale Insurance Company ("Scottsdale"), and cross-defendant Lexington Insurance Company  
21 ("Lexington"), have agreed and hereby stipulate to the dismissal of Scottsdale's Cross-Claim  
22 against Lexington, without prejudice, subject to said parties' mutual waiver of costs.

23 IT IS SO STIPULATED.

24  
25  
26  
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28

1 DATED: May 25, 2012

SELMAN BREITMAN LLP

2 By:

3 Lisa M. Lampkin  
4 Attorneys for Third-Party Defendant and Cross-  
5 Complainant Scottsdale Insurance Company

6 DATED: May 25, 2012

7 SELVIN WRAITH HALMAN LLP

8 By:

9 David A. Evans  
10 Attorneys for Cross-Defendant Lexington Insurance  
11 Company

**[PROPOSED] ORDER OF PARTIAL DISMISSAL**

12 Having reviewed the above stipulation, the Court orders that cross-defendant Lexington  
13 Insurance Company be dismissed, without prejudice, from Scottsdale Insurance Company's cross-  
14 claim, with each side to bear its own fees and costs. The remainder of the cross-claims shall not  
15 be impacted by this Order.

16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 Dated: 5/30/12

18   
19 United States District Court  
20 District of Northern California